

## Appellate Court Decisions - Week of 10/8/18

*Note: This is not a comprehensive list of every case released this week.*

### First Appellate District of Ohio

#### **State v. Johnson, 2018-Ohio-4131**

**Murder: Weapons Under Disability: Evidence: Jury Instructions**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-4131.pdf>

#### **Summary from the First District:**

“The trial court did not err in admitting other-acts evidence relating to defendant’s and his codefendant’s drug activity where the evidence was ‘inextricably interwoven’ with the charged crimes, was necessary to give a complete picture of what had occurred, and was necessary to show the relationship between defendant, his codefendant and the victim.

“The admission of testimony about items pulled from the codefendant’s trash, which included ammunition not related to the shooting and two digital drug scales, was not plain error given the other admissible evidence showing that defendant and his codefendant were involved in drug activity, and the otherwise overwhelming evidence against defendant.

“The admission into evidence of defendant’s statement to the police that he had spent time in jail was harmless error given the evidence about his drug activity and the otherwise overwhelming evidence against him.

“The trial court did not err in admitting other-acts evidence under Evid.R. 403(A) where the evidence was not presented for the sole purpose of appealing to the jurors’ emotions, sympathies or biases, but instead provided the setting of the case.

“The trial court did not commit plain error in failing to give limiting instructions after the testimony of every witness about other acts where defendant failed to request limiting instructions and where nothing in the record suggested that the jury had used improper other-acts evidence to convict defendant.

“The evidence was sufficient to support defendant’s conviction for having weapons under a disability where it showed that defendant had constructively possessed a gun through his codefendant, and where

defendant had a prior conviction for trafficking in marijuana, which precluded him from having a weapon.

“The evidence was sufficient to support defendant’s conviction for felony murder under R.C. 2903.02 where it showed that defendant assaulted the victim, and aided and abetted his codefendant in shooting the victim, and the state did not rely on inference stacking to prove aiding and abetting.”

***State v. Arszman, 2018-Ohio-4132***

Final Order

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-4132.pdf>

Summary from the First District: “The trial court’s order purporting to classify defendant as a Tier I sex offender under Ohio’s version of the Adam Walsh Act was not final and appealable, because it did not meet the requirement that the judgment of conviction must be a single document that includes the fact of conviction, the sentence, the judge’s signature, and the time stamp; therefore, defendant’s appeal from that order must be dismissed.”

## Second Appellate District of Ohio

***State v. Coleman, 2018-Ohio-4043***

Motion to Suppress: Statements

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2018/2018-Ohio-4043.pdf>

Summary from the Second District: “The trial court correctly concluded that Defendant-appellant unambiguously asserted his right to silence and that the interrogating officer did not honor the invocation. Further, Coleman’s comment that could be construed as a willingness to continue the discussion was not, based upon the failure to honor the invocation of the right to counsel, relevant to the suppression analysis. Judgment affirmed.”

***State v. Taylor, 2018-Ohio-4048***

Jurisdiction: Child Endangering: R.C. 2919.22(B)(1)

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2018/2018-Ohio-4048.pdf>

Summary from the Second District: “Defendant-appellant, following a bench trial, was convicted of assault but she was found not guilty of endangering a child. The assault conviction was supported by sufficient evidence, and it was not against the manifest weight of the evidence. However, the trial court, as conceded by the State of Ohio, lacked subject-matter jurisdiction over the charge of child endangering. Judgment affirmed with respect to the assault charge and vacated with respect to the child endangering charge.”

### Third Appellate District of Ohio

*Nothing to report.*

### Fourth Appellate District of Ohio

**State v. White, 2018-Ohio-4104**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2018/2018-Ohio-4104.pdf>

The trial court erred in its original sentencing entry by imposing a lump-sum five-year community control sentence for Appellant’s three intimidations convictions, rather than individual sentences for each conviction.

**State v. Ross, 2018-Ohio-4105**

Postconviction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2018/2018-Ohio-4105.pdf>

The trial court abused its discretion in denying Appellant’s petition for postconviction relief based on its belief that his pending appeal deprived the trial court of jurisdiction to decide his postconviction petition. R.C. 2953.21(D) does not deprive a trial court of jurisdiction to consider a timely postconviction-relief petition.

## Fifth Appellate District of Ohio

**State v. Gaffney, 2018-Ohio-4094**

Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2018/2018-Ohio-4094.pdf>

The trial court erred in denying Appellant’s motion to suppress the search of his vehicle because the Trooper did not have a reasonable, articulable suspicion of criminal activity to extend the scope of the traffic stop to conduct a search. “The only reasons supporting the detention were that appellant appeared to be nervous by being rigid and staring straight ahead and failing to make eye contact, the fact that the vehicle was not rented to appellant and the rental agreement had expired, and that [the Trooper] had received intelligence from other law enforcement officers that appellant had dealt drugs in the past. We also find that at the time [the Trooper] walked his dog around appellant’s vehicle, [the Trooper] had fulfilled the purpose of the initial stop in that Trooper was not waiting for information to return from the dispatch as to whether appellant had a valid driver’s license or there were any warrants out for his arrest.”

## Sixth Appellate District of Ohio

**State v. Thoss, 2018-Ohio-4051**

Felonious Assault: Child Endangering: Manifest Weight

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2018/2018-Ohio-4051.pdf>

Appellant’s conviction for felonious assault was against the manifest weight of the evidence because the evidence weighed against a finding that Appellant shook the victim baby.SDF

## Seventh Appellate District of Ohio

*Nothing to report.*

## Eighth Appellate District of Ohio

*Nothing to report.*

## Ninth Appellate District of Ohio

*Nothing to report.*

## Tenth Appellate District of Ohio

**State v. Betters, 2018-Ohio-4079**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2018/2018-Ohio-4079.pdf>

Summary from the Tenth District: “Appellant’s convictions for aggravated robbery and felonious assault were supported by sufficient evidence and were not against the manifest weight of the evidence. And the trial court did not commit plain error in instructing the jury. However, the trial court erroneously found that prison terms were mandatory for appellant’s aggravated robbery and felonious assault convictions. Thus, this matter is remanded for resentencing as to those convictions. Judgment affirmed in part and reversed in part; cause remanded for resentencing.”

## Eleventh Appellate District of Ohio

*Nothing to report.*

## Twelfth Appellate District of Ohio

*Nothing to report.*

## Supreme Court of Ohio

**State v. Bonnell, 2018-Ohio-4069**

Postconviction: DNA

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/o/2018/2018-Ohio-4069.pdf>

Appellant failed to demonstrate the results of DNA testing of any evidence he sought to have tested could be outcome determinative.

**Sixth Circuit Court of Appeals**

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*